

C. REMARKS

Reconsideration and allowance of the present application are requested in view of the foregoing amendments and the following remarks. Upon entry of this Reply, claims 1, 15, 30, 31, 45, 60, 61, 75, 90, 101, 116, 120, 131 and 136-245 will be pending in the present application, with claims 1, 15, 30, 31, 45, 60, 61, 75, 90, 101, 116, 120, and 131 being independent. The independent claims have been amended.

1. Telephonic Interview of October 14, 2003¹

Applicant thanks the Examiner for taking the time to confer with Applicant's representative on October 14, 2003. During the interview, the more precise language of Applicant's proposed Amendment was discussed, along with the disclosure of the Fulcher and Yacoob references. Applicant showed that only an impermissible hindsight reconstruction of the references of record can sustain the present obviousness rejections. The Examiner agreed that allowability would be indicated subject to an updated search and a review of the art of record.

In accordance with the personal interview, Applicant has amended the independent claims as set forth herein.

2. Yacoob/Fulcher et al. Rejection

The Examiner rejected claims 1, 15, 30, 31, 45, 60, 61, 75, 90, 101, 116, 131, 136-146, 148-150, 152-157, 159-169, 171-173, 175-180, 182-192, 194-196, 198-203, 205-212, 214-224,

¹ The Interview Summary form mailed by the Examiner is dated October 1, 2003. Applicant respectfully notes that the interview actually occurred on October 14, 2003.

226-236, 238-245 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,170,742 to Yacoob (“Yacoob”) in view of U.S. Patent No. 6,505,774 to Fulcher et al. (“Fulcher”).

Applicant incorporates by reference herein Applicant’s remarks made in the Reply of July 17, 2003.

The Examiner admits that Yacoob fails to teach or suggest “selectively offering an incentive.”² The Examiner attempts to remedy this admitted deficiency of Yacoob by relying on the teachings of Fulcher. In particular, the Examiner alleges that “Fulcher et al (‘774) figure 11 (702) teaches selectively offering an incentive, in the form of lower rates to longer term parkers or a coupon for future parking is dispensed based on the remaining time if more parking is paid for than is actually used”³ and that “it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Yacoob (‘742) to include the selective incentive ... feature[] of Fulcher et al (‘774) for the benefit of customer retention and user convenience.”⁴ Applicant traverses this rejection, though Applicant has more precisely described aspects in the amended claims.

Applicant submits that the outstanding grounds of rejections are based on impermissible hindsight reconstruction, using Applicant’s claim as a template to reconstruct the claimed invention.⁵

While Applicant disagrees with and traverses the Examiner’s grounds of rejections, independent claims 1, 15, 30, 31, 45, 60, 75, 90, 101, 116, and 131 have been further amended in

² See Office action, at p 3.

³ *Id.*

⁴ *Id.*

⁵ See In re Fritch, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

order to expedite prosecution. Namely, Applicant has amended the claims to recite that “the incentives are at least in part associated with recommended maintenance services to be performed on a vehicle by a vehicle service entity associated with the data management system, wherein the incentives are selectively offered based at least in part on a vehicle maintenance schedule for a customer.”

Applicant submits that Yacoob and Fulcher clearly fail to teach or suggest all the elements of independent claims 1, 15, 30, 31, 45, 60, 75, 90, 101, 116, and 131 – in particular, “a data management system configured to provide a customer incentive package with selectively offered incentives, wherein the incentives are at least in part associated with recommended maintenance services to be performed on a vehicle by a vehicle service entity associated with the data management system....,” as recited. In addition, Applicant submits that Yacoob and Fulcher provide no suggestion or motivation to modify their respective systems to include a data management system as recited by independent claims 1, 15, 30, 31, 45, 60, 75, 90, 101, 116, and 131.

Applicant reiterates the observation made in the previous Reply that, as applied in a motor vehicle context, Yacoob specifically focuses on the record keeping nature of its smart machine card system, which automatically records vehicle transactions.⁶

The portions of Fulcher relied on by the Examiner relate only to parking-related payment rates and coupons, and in no way teach or suggest “incentives ... at least in part associated with recommended maintenance services to be performed on a vehicle by a vehicle service entity

⁶ Yacoob at col. 22, l. 44 through col. 23, l. 21 (“The smart machine card facilitates automatic recording of vehicle transactions....”).

associated with the data management system...,” as recited.

In view of the above, claims 1, 15, 30, 31, 45, 60, 61, 75, 90, 101, 116, 131, 136-146, 148-150, 152-157, 159-169, 171-173, 175-180, 182-192, 194-196, 198-203, 205-212, 214-224, 226-236, 238-245 clearly recite combinations of features that are neither taught nor suggested by the prior art including Yacoob alone or in combination with Fulcher. Applicant submits that such claims are allowable for at least this reason.

Accordingly, reconsideration and withdrawal of this rejection are requested.

3. Yacoob/Fulcher/Filepp et al. or Collins-Rector et al. Rejection

The Examiner rejected claims 120, 147, 151, 158, 170, 174, 181, 193, 197, 204, 213, 225 and 237 as being unpatentable over Yacoob in view of Fulcher and further in view of U.S. Patent No. 5,347,632 to Filepp et al. (“Filepp”) or U.S. Patent No. 6,188,398 to Collins-Rector et al. (“Collins-Rector”).

Applicant incorporates by reference herein Applicant’s remarks made in the Reply of July 17, 2003.

Applicant submits that Yacoob cannot be combined with Fulcher, Filepp or Collins-Rector. Applicant submits that Yacoob, Fulcher, Filepp, or Collins-Rector cannot be properly combined because the references are in different fields of endeavors and not reasonably pertinent to the particular problem with which each reference was concerned. Furthermore, it is clear that, even if combined, such combinations would still fail to teach or suggest all the features of claims 120, 147, 151, 158, 170, 174, 181, 193, 197, 204, 213, 225 and 237.

As set forth above, the teachings of Yacoob and Fulcher fail to teach or suggest “a data management system configured to provide a customer incentive package with selectively offered incentives, wherein the incentives are at least in part associated with recommended maintenance services to be performed on a vehicle by a vehicle service entity associated with the data management system, wherein the incentives are selectively offered based at least in part on a vehicle maintenance schedule for a customer,” and, thus, are insufficient to establish a *prima facie* case of obviousness with respect to the amended independent claims. In addition, the portions of Filepp and Collins-Rector relied on by the Examiner are devoid of any teaching or suggestion of “a data management system configured to provide a customer incentive package with selectively offered incentives....,” as recited by the independent claims.

In view of the above, claims 120, 147, 151, 158, 170, 174, 181, 193, 197, 204, 213, 225 and 237 clearly recite combinations of features that are neither taught nor suggested by the prior art including Yacoob alone or in combination with Fulcher, Filepp and/or Collins-Rector. Applicant submits that such claims are allowable for at least this reason.

Accordingly, reconsideration and withdrawal of this rejection are requested.

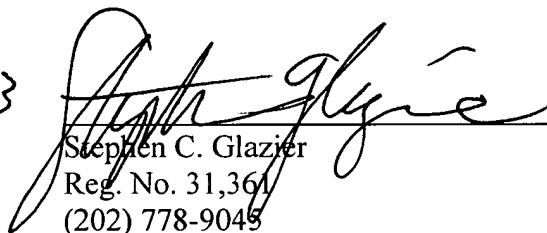
D. CONCLUSION

Applicant submits that the present application is in condition for allowance and requests favorable action in the form of a Notice of Allowance. Should the Examiner believe that this application is in condition for disposition other than allowance, the Examiner is invited to contact the undersigned at the telephone number listed below in order to address the Examiner's concerns.

Respectfully submitted,

Date: _____

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